III. Remarks

A. Amendments to the Claims

Applicants have amended claims 1 and 23 to provide that the claimed detergent or cleaner shaped body is in the form of a three-layer tablet in which the three layers exist over the entire circumference of the tablet. Support for the amendment is provided in the Specification at page 55, lines 13–29, page 56, lines 4–8, page 62, lines 5–8 and the Declaration of Dr. Birgit Burg ("Burg Declaration") attached as **EXHIBIT A**. Claim 23 has also been amended to convert the claim from a dependent to an independent claim incorporating the subject matter of claim 1. Support for the amendment is provided by claims 1 and 23 and by the Specification at page 56, lines 4–8.

B. Rejections Under 35 U.S.C. Section 112

Claim 1 is rejected under 35 U.S.C. Section 112, first paragraph, as failing to comply with the written description requirement.

1. Position of the Examiner

The Examiner's reason for the rejection is as follows:

> The claim(s) contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The aforementioned claim states "over the entire circumference of the tablet," wherein said phrase is not supported by the specification, where the skilled artisan could reasonably place this phrase in the possession of the inventors at the time the invention was made.

(Examiner's Action, page 2, lines 13–19).

2. Legal standard for determining compliance with the written description requirement

In *In re Alton*, 37 USPQ2d 1578 (Fed. Cir. 1996), the United States Court of Appeals for the Federal Circuit defined the legal standard for determining compliance with the written description requirement. That standard is as follows:

> The adequate written description requirement of 35 U.S.C. § 112, ¶ 1, provides that [t]he specification shall contain a ***written description of the invention***, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention. (*emphasis in original*).
>
> The adequate written description requirement, which is distinct from the enablement and best mode requirements, serves "to ensure that the inventor had possession, as of the filing date of the application relied on, of the specific subject matter later claimed by him; how the specification accomplishes this is not material." *In re Wertheim*, 541 F.2d 257, 262, 191 USPQ 90, 96 (CCPA 1976). ***In order to meet the adequate written description requirement, the applicant does not have to utilize any particular form of disclosure to describe the subject matter claimed, but "the description must clearly allow persons of ordinary skill in the art to recognize that [he or she] invented what is claimed."*** *In re Gosteli*, 872 F.2d 1008, 1012, 10 USPQ2d 1614, 1618 (Fed. Cir. 1989) (citation omitted). Put another way, "the applicant must . . . convey with reasonable clarity to those skilled in the art that, as of the filing date sought, he or she was in possession ***of the invention***." *Vas-Cath*, 935 F.2d at 1563–64, 19 USPQ2d at 1117. Finally, we have stated that "[p]recisely how close the original description must come to comply with the description requirement of section 112 must be determined on a case-by-case basis." *Eiselstein v. Frank*, 52 F.2d 1035, 1039, 34 USPQ2d 1467, 1470 (Fed. Cir. 1995) (quoting *Vas-Cath*, 935 F.2d at 1561, 19 USPQ2d at 1116). (*emphasis added* as to sentence beginning "In order to meet....").

(*In re Alton* at 37 USPQ2d 1581).

3. Procedure for determining whether Applicants have satisfied the written description requirement

The Federal Court's Opinion in *In re Alton* also set forth a procedure for determining whether Applicants have satisfied the written description requirement. That procedure is as follows:

> The examiner (or the Board, if the Board is the first body to raise a particular ground for rejection) "bears the initial burden . . . of presenting a *prima facie* case of unpatentability." *In re Oetiker*, 977 F.2d 1443, 1445, 234 USPQ2d 1443, 1444 (Fed. Cir. 1992). Insofar as the written description requirement is concerned, that burden is discharged by "presenting evidence or reasons why persons skilled in the art would not recognize in the disclosure a description of the invention defined by the claims." *Wertheim*, 541 F.2d at 263, 191 USPQ at 97. Thus, the burden placed on the examiner varies, depending upon what the applicant claims. If the applicant claims embodiments of the invention that are completely outside the scope of the specification, then the examiner or Board need only establish this fact to make out a *prima facie* case. *Id.* at 263–64, 191 USPQ at 97. If, on the other hand, the specification contains a description of the claimed invention, albeit not *in ipsis verbis* (in the identical words), then the examiner or Board, in order to meet the burden of proof, must provide reasons why one of ordinary skill in the art would not consider the description sufficient. *Id.* at 264, 191 USPQ at 98. Once the examiner or Board carries the burden of making out a *prima facie* case of unpatentability, "the burden of coming forward with evidence or argument shifts to the applicant." *Oetiker*, 977 F.2d at 1445, 24 USPQ2d at 1444. To overcome a *prima facie* case, an applicant must show that the invention as claimed is adequately described to one skilled in the art. "After evidence or argument is submitted by the applicant in response, patentability is determined on the totality of the record, by a preponderance of the evidence with due consideration to persuasiveness of argument." *Id.* at 1445, 24 USPQ2d at 1444.

(*In re Alton*, 37 USPQ2d at 1583–84).

4. Evidence and argument submitted by the Examiner and by Applicants

As noted above, the Examiner's reason for the rejection is the statement that "The aforementioned claim [1] states 'over the entire circumference of the tablet' wherein said phrase is not supported by the specification, where the skilled artisan could reasonably place this phrase in the possession of the inventors at the time the invention was made."

Applicants submit herewith as **EXHIBIT A**, a Declaration of Dr. Birgit Burg, one of the inventors of the present application.

In the Declaration, Dr. Burg identifies through disclosures in the Application that Applicants were in possession of the invention as claimed including the requirement "that the three layers of the tablet exist and are visible over the entire circumference of the tablet." Dr. Burg also explains how these disclosures clearly allow persons of ordinary skill in the art to recognize that the inventors invented the requirement at issue.

A description of the structure of the three-layer tablet is set forth in the following passage of the Specification of Application No. 10/694,549:

> For esthetic reasons and because of better handlability, preference is given to shaped bodies according to the invention in which the viscoelastic phase is surrounded by two tableted phases. In particular, the layer structure is suitable here. In the simplest case, such a preferred shaped body according to the invention has the form of a three-layer tablet whose outer layers are tableted while the middle layer is the viscoelastic phase. The outer "covers" can of course also consist of multilayer tablets, and even the viscoelastic phase can be composed of two or more viscoelastic phases optionally of varying composition. Preference is given here to detergent or cleaner shaped bodies according to the invention which have two tableted phases which have the form of layers, where the viscoelastic phase is located as the third layer between the tableted layers.

(Specification, page 55, lines 13–29). (Burg Declaration, Paragraph 6).

The passage in the Specification quoted in Paragraph 6 describes a three-layer tablet in which the outer covers (layers) are tableted and the inner viscoelastic phase is located between the outer tableted cover layers. (Burg Declaration, Paragraph 7).

The appearance of the tablet is shown below in Figure 1 wherein the tablet is represented as "1," the cover layers as "2" and the viscoelastic phase as "3."

Figure 1

(Burg Declaration, Paragraph 8).

The appearance of the tablet is further described in the Specification of Application No. 10/694,549, at page 56, lines 4–8:

> The configuration of the above-described three-layer tablet is particularly visually attractive when the viscoelastic layer constitutes 0.1 to 0.6 times, preferably 0.15 to 0.5 times and in particular 0.2 to 0.4 times, the total height of the tablets.

(Burg Declaration, Paragraph 9).

From the description at page 6, lines 4–8, a person of ordinary skill in the art would understand that the viscoelastic layer in the three-layer tablet has a thickness which is defined

in terms of the height of the other layers. The viscoelastic layer preferably has a height of at least 10% of the tablet. The description that the "configuration of the above-described three-layer tablet is particularly visually attractive . . . " discloses to this skilled person that the three layers are visible and exist over the entire circumference of the tablet. (Burg Declaration, Paragraph 10).

A description of the process of forming the three-layer tablet is provided in the Examples section of Application No. 10/694,549:

> Three-layer tablets according to the invention can be prepared by placing the abovementioned viscoelastic phases between two tablet "covers" by means of compression technology.

(Specification, page 62, lines 5–8).

The last quoted statement describes to a skilled person that the tablet is formed by preparing the viscoelastic phase in the form of a layer and placing cover layers above and below the viscoelastic phase layer. The result is a tablet with three distinct layers that exist and are visible over the entire circumference of the tablet. (Burg Declaration, Paragraph 11).

Accordingly, for the reasons set forth above, claim 1 is supported by the Specification. Accordingly, the rejection of claim 1 under 35 U.S.C. Section 112, first paragraph, should be withdrawn.

C. Rejection Under 35 U.S.C. Section 103

Claims 1–25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacques Kamiel Thoen et al. (6,548,473)

1. Position of the Examiner

The Examiner's reasons for the rejection are as follows:

> Jacques Kamiel Thoen et al. disclose a multi-layer detergent tablet having both a compressed and non-compressed portion comprising, in the non-compressed portion of said multi-layered tablet, at least 0.01% of a surfactant (col. 14, lines 54-61) and in particular anionic surfactants such as linear alkyl benzene sulfonate (col. 21, lines 32–42). Jacques Kamiel Thoen et al. further disclose the inclusion of builders in an amount from 10–80% by weight (col. 27, lines 41–50) and the at least one non-compressed portion of the detergent tablet is equal to or less than the compressed mould portion of the tablet (col. 51, lines 11–25). Jacques Kamiel Thoen further teaches that the viscosity of an ingredient in the non-compressed phase, which comprises surfactants, gallants, builders and other adjunct material, is 50 to 100,000 cps (column 12, lines 60–63).
>
> Jacques Kamiel Thoen et al. do not specifically teach that said phase is a viscoelastic phase having storage modulus of between 40,000 and 800,000 Pa and a phase shift in the range of 0 to 30 degrees Celsius.
>
> It would have been obvious to one of ordinary skill in the art to expect the compositions of Jacques Kamiel Thoen et al. to comprise a storage modulus or phase shift as claimed in the non-compressed layer because Jacques Kamiel Thoen et al. teaches the use of alkyl benzene sulfonates as surfactants that may be used in the non-compressed phase of the tablet composition and the skilled artisan would expect similar properties, in the absence [of] a showing to the contrary. Furthermore, the court held "it is not necessary in order to establish a *prima facie* case of obviousness . . . that there be a suggestion or expectation from the prior art that the claimed [invention] will have the same or a similar utility as one newly discovered by applicant," and concluded that here a *prima facie* case was established because "[t]he art provided the motivation to make the claimed compositions in the expectation that they would have similar properties." *In re Dillon*, 919 F.2d 693, 16 USPQ2d 1901 (Fed. Cir. 1990).

(Examiner's Action, page 3, line 1 to page 4, line 4).

At page 4, line 10, to page 6, line 8, of the Action in the "Response to Arguments," the Examiner set forth the following additional reasons in support of the rejection:

> The examiner contends and respectfully disagrees because Thoen et al. specifically teach that said detergent composition is in the form of a multilayered tablet (column 14). Thoen et al. specifically discloses that said tablet is prepared by having a compressed portion in a plurality of moulds. The plurality of moulds is filled with a non-compressed, non-encapsulating portion (col. 52, lines 47-54) using a modified tablet press comprising modified upper and lower punches. The upper and lower punches of the modified tablet press are modified such that the compressed portion provides one or more indentations, which form the moulds to which the non-compressed portion is delivered (col. 51, lines 54-55). Therefore, it can be seen that Thoen et al. teaches that said multi-layered tablet is formed with at least three layers and said layers comprise compressed layers and a non-compressed [layer]. Accordingly, the claims are suggested by the prior art of record.
>
> Applicant further argues that Thoen [et al.] do not suggest a viscoelastic phase tablet.
>
> The examiner contends that the term "viscoelastic," according to applicant's specification, is a phrase that exhibits both viscous and elastic behavior (see page 3, lines 31-33). Therefore, as applicants' working examples employ a plethora of ingredients that constitute the "viscoelastic phase," Thoen [et al.] clearly suggest [that] many of these ingredients, when combined, would clearly read on a viscoelastic phase as broadly defined by the claims and suggested by the specification.
>
> Applicant further argues that Thoen [et al.] does not suggest tableted layers in contact with a viscoelastic phase.
>
> The examiner contends that Thoen [et al.] clearly suggests multi-layer tablets and clearly suggests a non-compressed phase which reads on applicants' viscoelastic phase, in the absence of a showing to the contrary, wherein it would have been in the purview of the artisan of ordinary skill in the art to expect the non-compressed phase and the compressed layers are in contact with one another.

> *An obviousness determination is not the result of a rigid formula disassociated from the consideration of the facts of a case. Indeed, the common sense of those skilled in the art demonstrates why some combinations would have been obvious where others would not. See* KSR Int'l Co. v. Teleflex Inc., 550 U.S. ___, 2007 WL 1237837, at *12 (2007).
>
> Applicant argues that the entire circumference of the tablet comprises a visible viscoelastic phase and Thoen does not teach this limitation nor would it be obvious to modify his teachings.
>
> The examiner contends that when applicant's amended phrase is read in its broadest and most reasonable context, the amended phrase may be construed as any layer being visible including a layer that is comprised of compressed and non-compressed material as long as it is visible." Therefore, the claim may be construed as visible layers which are defined as "layers being seen" over the entire circumference of the tablet, which may include but not [be] limited to coloration or markings which define layers, indentations or embossing, all of which would have been obvious to the tablets suggested by Thoen.

(Action at page 5, line 19 to page 6, line 8).

2. Legal standard for a rejection under 35 U.S.C. Section 103

The legal interpretation of Section 103 to be applied is set forth in the recent Supreme Court decision of *KSR International Co. v. Teleflex Inc. (KSR)*, 550 U.S. ___, 82 USPQ2d 1385 (2007). *KSR* cites *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17–18 [148 USPQ 459] (1966)) as setting out an objective analysis for applying Section 103. (82 USPQ 2d at 1388). The objective analysis is as follows:

> Under § 103, the scope and content of the prior art are to be determined; the differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, *etc.*, might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented. As indicia of obviousness or nonobviousness, these inquiries may have relevancy.

(148 USPQ at 467).

Accordingly, the factual inquiries set forth by the Court are as follows:

- [T]he scope and content of the prior art are . . . determined;
- Differences between the prior art and the claims at issue are . . . ascertained;
- The level of ordinary skill in the pertinent art [is] resolved; and
- Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, *etc.*, might be utilized. . . .

The Supreme Court's analysis in *KSR* included a determination of obviousness based on the lack of improved results of a claimed combination over the elements in the combination. The Court cited *United States v. Adams*, 383 U.S. 39, 40 [148 USPQ 479] (1996) in determining that "The fact that the elements worked together in an unexpected and fruitful manner supported the conclusion that Adams's design was not obvious to those skilled in the art" (referring to *United States v. Adams*, 383 U.S. 39, 40 [148 USPQ 479] (1966) *Id.* 82 USPQ2d 1395).

3. Application of the *Graham v. John Deere Co.* factual standards

a. Determining the scope and content of the prior art

The Thoen et al. patent is directed to a detergent tablet comprising a compressed solid body portion having therein at least one mould in said compressed solid body portion. This disclosure is set forth more specifically in the Abstract, which reads as follows:

> A detergent tablet comprising I) a compressed solid body portion having therein at least one mould in said compressed solid body portion; and ii) at least one non-compressed, non-encapsulating portion mounted in said at least one mould of said compressed solid body portion, having an area of B, said at least one non-compressed, non-encapsulating portion comprising at least one detergent active; wherein surface area of said

> detergent tablet, excluding area of said at least one mould, is A; and wherein further ratio of B to A is from about 1:50 to about 4:1, by area. (Abstract).

(Burg Declaration, Paragraph 12).

The non-compressed, non-encapsulating portion of the tablet is intended to contain components of the detergent tablet that are adversely affected by compression. This objective is disclosed in the Thoen et al. patent at column 6, lines 17–30, which reads as follows:

> The non-compressed, non-encapsulating portion comprises at least one detergent active component, but may comprise a mixture of more than one detergent active components. Detergent active components suitable for incorporation in the non-compressed, non-encapsulating portion include components that interact with one or more detergent active components present in the compressed portion. In particular, preferred components of the non-compressed, non-encapsulating portion are those that are adversely affected by compression pressure of for example a compression tablet press. Examples of such detergent active components include, but are not limited to, surfactant, bleaching agent, bleach activator, bleach catalyst, enzyme, corrosion inhibitor, perfume and an alkalinity source.

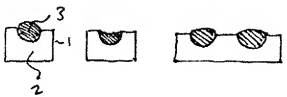
(Burg Declaration, Paragraph 13).

The Thoen et al. patent contains the following disclosure at column 52, lines 47–54:

> It is also envisaged that the compressed portion may be prepared having a plurality of moulds. The plurality of moulds are then filled with a non-compressed, non-encapsulating portion. It is also envisaged that each mould can be filled with a different non-compressed, non-encapsulating portion or alternatively, each mould can be filled with a plurality of different non-compressed, non-encapsulating portion.

(Burg Declaration, Paragraph 14).

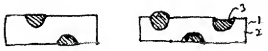
The process disclosed at column 52, lines 47–54 results in tablets having the configurations disclosed in the following Figures 2A, 2B and 2C, in which the moulds containing the non-compressed, non-encapsulating portion are on one side of the tablet. The tablet is represented by "1," the compressed layer, by "2" and the non-compressed, non-encapsulating layer, by 3."



Figures 2A, 2B and 2C

(Burg Declaration, Paragraph 15).

The process disclosed at column 52, lines 47–54, also results in tablets having configurations disclosed in the following Figures 3A and 3B, in which the moulds containing the non-compressed, non-encapsulating portion are on one side of the tablet. The tablet is again represented as "1," the compressed layer as "2" and the non-compressed, non-encapsulating layer as "3."



Figures 3 A and 3B

(Burg Declaration, Paragraph 16).

In the tablets shown in Figures 3A and 3B at least a portion of the non-compressed, non-encapsulating portion is covered with a coating layer such that the coating layer has the effect of substantially adhering the non-compressed portion to the compressed portion. (Thoen et al. patent, column 52, lines 29–33). (Burg Declaration, Paragraph 17).

b. Ascertaining the differences between the prior art and the claims at issue

Applicants' invention as claimed in claim 1 is to a detergent or cleaner shaped body in the form of a three-layer tablet. The three-layer tablet comprises a viscoelastic phase, said phase comprising, based on its weight, 60 to 85% by weight of one or more alkylbenzene-sulfonates, having a storage modulus of between 40,000 and 800,000 Pa. The viscoelastic phase is present in the form of a layer placed between two tableted phase, each in the form of a layer so that the three layers of the tablet exist and are visible over the entire circumference of the tablet. Claims 2-22 are dependent upon claim 1 or upon a claim that is dependent ultimately upon claim 1, incorporate the limitations of claim 1 and set forth further limitations in the claimed detergent or cleaner shaped body. Claims 23–25 incorporate the limitations of claim 1 and further define the viscoelastic layer as constituting 0.1 to 0.6 times the total weight of the remaining layers.

The Thoen et al. tablet comprises at least one non-compressed, non-encapsulating portion mounted in at least one mould of said compressed solid body portion. At least part of the outer edge of the circumference of the tablet must consist entirely of the compressed portion forming a side wall of the mould(s). *See* Figures 2A, 2B and 2C and Figures 3A and 3B of the Burg Declaration.

In the configuration of the tablet shown in Paragraphs 15 and 16 of the Burg Declaration, the non-compressed, non-encapsulating layer of the tablet does not exist and become visible over the entire circumference of the tablet because the non-compressed, non-encapsulating portions of the tablet are located within the circumference of the tablet. Indeed, in the Thoen et

al. tablet, only one layer of the tablet is present over the entire circumference of the tablet. That one layer constitutes the compressed portion of the tablet. (Burg Declaration, Paragraph 18).

The structure and composition of the tablet disclosed in the Thoen et al. patent is different than Applicants' claimed tablet. Applicants' claimed viscoelastic phase layer exists and is visible along the entire circumference of the tablet. Therefore, the composition of Applicants' viscoelastic phase must be different than the composition of the Thoen et al. non-compressed, non-encapsulating portion because the viscoelastic phase is capable of existing and being visible over the entire circumference of the tablet. The Thoen et al. process which employs at least one mould, as disclosed in the Abstract, always results in tablets with overpressed areas in the mould. These tablets will show an inferior stability compared with Applicants' claimed tablets without overpressed areas. (Burg Declaration, Paragraph 19).

For that reason, the composition and structure of the tablet disclosed in the Thoen et al. patent must be different than Applicants' claimed tablet. Applicants' claimed viscoelastic phase layer exists along the entire circumference of the tablet and is stable. The Thoen et al. patent discloses a non-compressed, non-encapsulating portion of the tablet that is not present along the entire circumference of the tablet.

Nor can one skilled in the art modify the Thoen et al. tablet to obtain Applicants' claimed tablet, which comprises three separate layers, so that each of said three layers of the tablet exists and is visible over the entire circumference of the tablet. As set forth above, the Thoen et al. patent instructs one skilled in the art that the non-compressed, non-encapsulating layer is in moulds formed from the compressed portion of the tablet. In comparison, Applicants' claimed viscoelastic layer is structurally stable and therefore exists and is visible over the entire circumference of the tablet. For these reasons, Applicants' layer must be different in composition from the non-compressed, non-encapsulating layer disclosed in the Thoen et al. patent.

This comparison also demonstrates the differences between the issues of patentability of Applicants' claimed tablet relative to Thoen et al. and the patentability issues addressed in *In re Dillon*. *In re Dillon* is relied on by the Examiner to show that a *prima facie* case of

obviousness was established because the art provided the motivation to make the claimed composition in the expectation that they would have similar properties.

In re Dillon concerned the patentability of claims to a composition wherein the additives of the new compositions are structurally similar to additions in known compositions. *In re Dillon*, 16 USPQ2d 1897, 1900 (Fed. Cir. 1990).

Unlike the compositions in *In re Dillon*, Applicants' claimed three-layer tablet is structurally distinct from the tablet disclosed in Thoen et al. As disclosed in Figure 1 of the Burg Declaration, Applicants' claimed tablet exists and has three layers that are visible throughout the circumference of the tablet. The Thoen et al. tablet has one layer, as shown in Figures 2A, 2B and 2C and Figures 3A and 3B of the Burg Declaration.

The difference between Applicants' claimed tablet and the Thoen et al. tablet is even more pronounced with respect to the tablet claimed in claims 23–25, which define the height of the viscoelastic layer of the tablets in a range of 0.1 to 1.6 times the tablet height of the remaining layers to a range of 0.2 to 0.4 times the total height of the remaining layer.

In the Action at page 6, lines 5–8, the Examiner argues that the layers would be represented by coloration or markings which define layers, indentations or embossing. Thoen et al. does not disclose or suggest to one skilled in the art a viscoelastic phase layer that exists and is visible over the entire circumference as claimed in claims 1–22 or has a defined height along the entire circumference of the tablet as further claimed in claims 23–25. Indeed, the Thoen et al. non-compressed, non-encapsulating portion relied on by the Examiner as equivalent to the viscoelastic phase does not exist at any height along the circumference of the tablet.

c. Resolving level of ordinary skill in the pertinent art

The inventors of the present application and the inventors of the prior art patent would represent persons of ordinary skill in the art.

d. Possible utilization of secondary considerations

There has been a long felt need for a multi-layer tablet to permit the incorporation of ingredients which are incompatible with one another.

4. Application of the *KSR* test demonstrates the unobviousness of Applicants' claimed tablet

The Supreme Court's analysis in *KSR* included a determination of obviousness based on the lack of improved results of a claimed combination over the elements in the combination. The Court cited *United States v. Adams*, 383 U.S. 39, 40 [148 USPQ 479] (1996) in determining that "the fact that the elements worked together in an unexpected and fruitful manner supported the conclusion that Adams's design was not obvious to those skilled in the art" (referring to *United States v. Adams*, 383 U.S. 39, 40 [148 USPQ 479] (1966) *Id.* 82 USPQ2d 1395). Applicants' claimed tablet comprises separate layers that work together in an unexpected and fruitful manner over the tablet disclosed in Thoen et al. in that it is easier to assemble in not requiring containing a non-compressed, non-encapsulating portion of a tablet in a mould.

5. Applying the legal standard under 35 U.S.C. Section 103, there exists no *prima facie* case of obviousness of Applicants' claims over the Thoen et al. patent

As set forth above, Applicants' claimed detergent or cleaner shaped body is in the form of a three-layer tablet comprising a viscoelastic phase present in the form of a layer placed between two tableted phases each in the form of a layer. The three layers of the tablet exist and are visible over the entire circumference of the tablet. In claims 23–25, the viscoelastic layer and remaining layers are further defined in terms of their height. The Thoen et al. detergent tablet comprises a compressed solid body portion with at least one non-compressed, non-encapsulating portion present within the compressed solid body portion and not forming part of the entire circumference of the tablet. Accordingly, for the reasons set forth hereabove.

the rejection of claims 1-25 under 35 U.S.C. Section 103(a) as being unpatentable over United States Patent No. 6,548,473 to Thoen et al., is untenable and should be withdrawn.

IV. Conclusion

It is believed that the above Amendment and Remarks constitute a complete response under 37 C.F.R. Section 1.111 and that all bases of rejection in the Examiner's Action have been adequately rebutted or overcome. A Notice of Allowance in the next Office Action is, therefore, respectfully requested. The Examiner is requested to telephone the undersigned attorney if any matter that can be expected to be resolved in a telephone interview is believed to impede the allowance of pending claims 1-25 of United States Patent Application Serial No. 10/694,549.

Respectfully submitted,

PAUL AND PAUL

Date: August 15, 2008

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